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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,536	12/27/2001	Denis M. Blanford	10011	1432
26884	7590	09/08/2004	EXAMINER TRAIL, ALLYSON NEEL	
PAUL W. MARTIN LAW DEPARTMENT, WHQ-4 1700 S. PATTERSON BLVD. DAYTON, OH 45479-0001			ART UNIT 2876	PAPER NUMBER

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,536

Applicant(s)

BLANFORD ET AL.

Examiner

Allyson N Trail

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 2, 6, 8, 9, 12, 14, 15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schneider (5,115,888).

Schneider teaches the following in regards to claim 1:

Allowing placement of items to be weighed on a scale 23, of the retail terminal (figure 1). Allowing scanning of one item of the items via a scanner 114, of the retail terminal. Obtaining a first weight measurement (at packing scale 23) of the items on the scale upon successful scanning of the one item; and obtaining a second weight measurement (at bagging scale) upon actuation of a trigger.

Schneider teaches the following in regards to claims 2, 9, and 15:

The second weight of the items is measured when the bag is filled and the bag is moved from the packing scale to the bagging scale. The bagging scale weighs the items once placed thereon. (Col. 12, lines 18-27)

Schneider teaches the following in regards to claims 6, 12, and 18:

“The computer will make sure that the weight increase of the bagging scale 29 is equal exactly to the weight of bag 21 measured by the packing scale 23.” If there is no

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discrepancy between the second and first weight, it is indicated to be a successfully obtained. (Col. 12, lines 24-27).

Schneider teaches the following in regards to claim 8:

See Schneider's teachings in regards to claim 1. Additionally, Schneider teaches the retail terminal including a processor 554 and a memory 552, which contains program steps that CPU 554 follows. (Col. 21, lines 60-64).

Schneider also teaches reading machine-readable data, such as a barcode.

Schneider teaches the following in regards to claim 14:

See Schneider's teachings in regards to claims 1 and 8. Additionally, Schneider teaches the scale being in communication with the processor. "The computer will make sure that the weight increase of the bagging scale 29 is equal exactly to the weight of bag 21 measured by the packing scale 23." If there is no discrepancy between the second and first weight, it is indicated to be a successfully obtained. (Col. 12, lines 24-27).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5, 7, 10, 11, 13, 16, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (5,115,888) in view of Ruppert et al (5,640,002).

Schneider's teachings are discussed above. Schneider additionally teaches (in regards to claim 4) a key for locking the terminal and using a key. (Col. 13, lines 59-68). Schneider fails to teach the actuation of a trigger comprising user-actuation of an actuator. Schneider also fails to teach a timer having a time duration, and lastly fails to teach providing an audio indication of the successful obtaining of a weight measurement.

Ruppert et al teaches the following in regards to claims 3, 10, and 16:

"The user then loads the products from his cart into a bag or other container 545 and loads the bag on an electronic scale 547 at the checkout station. The user also enters his user ID number on a keyboard (not shown) at the checkout station 549 and presses a button to cause the scale to weigh the bag and another button to tell the scale when the last bag has been weighed." (Col. 38, lines 5-11).

Ruppert et al teaches the following in regards to claims 5, 11, and 17:

"If the user does not press the scan button for a predetermined time of, for example 30 seconds, the microprocessor displays a query as to whether the user is done shopping as symbolized by block 87." (Col. 10, lines 56-59).

Ruppert et al teaches the following in regards to claims 7, 13, and 19:

"When a bar code has been successfully scanned, a beep tone is emitted from a piezoelectric sounding device 89 in FIG. 3." (Col. 11, lines 3-5). Ruppert et al's audio indications of successful scanning could easily be used for the indication of a successful weight measurement.

In view of Ruppert et al's teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ruppert et al's method of having the user press a button to cause the scale to weigh the bag. Schneider teaches weighing a bag as the bag is placed on the scale. One would be motivated to have the user initiate the weighing of the bag to ensure that the bag is placed in the middle of the scale and correct weight is measured. Additionally, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the timer taught by Ruppert et al along with the self-checkout system taught by Schneider. The timer acts as a backup. If the actuator is not triggered and does not weigh the bag, the timer will trigger the scale to take a measurement. Lastly, one would be motivated to include an audio indication of a successful weight measurement in order for the customer to know that the bag's weight has successfully been obtained. This will cut down on time and confusion of not knowing if the bag has been successfully read or not.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Addy (6,145,629), Lutz et al (5,967,264), GIL et al (2002/007281), Humble (5,494,136), Morrison et al (6,382,357), Bellis et al (2003/0024982), Jacobs (2002/0194074), Jennings et al (6,592,033), Duvall et al (2003/0083944).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Allyson N. Trail* whose telephone number is (571) 272-

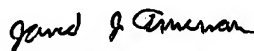
2406. The examiner can normally be reached between the hours of 7:30AM to 4:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (571) 272-2398. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [allyson.trail@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Allyson N. Trail
Patent Examiner
Art Unit 2876
September 1, 2004


JARED J. FUREMAN
PRIMARY EXAMINER